

REMARKS

Claims 1-26 are pending. Claims 1-26 are rejected. Claims 1, 13, and 20 have been amended. No new matter has been added.

Amendments

Claims 1, 13, and 20 have been amended. Support for these amendments can be found in the application as filed; see, e.g., Fig 2A; pg. 18, ln. 1 - pg. 23, ln. 9..

35 U.S.C. 112 ¶ 1 Rejections

The specification is objected to under 35 U.S.C. § 112, ¶ 1, as failing to adequately teach how to make or use the invention. Specifically, the rejection recites that the specification fails to teach "determining application test latency, wherein said application test is selected to represent a portion of said electronic commerce transactions" (sic), as recited in Claim 1. Applicants respectfully traverse this objection.

Applicants note that Claim 1 has been amended to correct an informality, e.g., regarding "said application test."

Applicants respectfully direct the Examiner to the specification of the pending application, where ample support for the claimed limitation is described. Specifically, the Examiner is directed to page 5, ln. 6, through page 6, ln. 2. As described in this portion of the specification, "determining application test latency" involves estimating the latency within the electronic commerce provider's system by application tests which

correspond to a select and lightweight subset of tasks performed during a typical electronic commerce transaction (id.). The Examiner is further directed to Figure 2A, step 202, "Determining Application Test Latency", and the corresponding description, page 20, ln. 1, through page 22, ln. 19, which provide a detailed and thorough description of an embodiment of "determining application test latency." Accordingly, Applicants respectfully contend that the specification provides adequate enablement for "determining application test latency," as claimed, and therefore overcomes the grounds for objection under 35 U.S.C. § 112, ¶ 1. Applicants respectfully request that this objection be withdrawn.

35 U.S.C. 103(a) Rejections

Claims 1-26 are rejected under 35 U.S.C. 103(a) as being obvious over Deverill, U.S. Publication 2003/0014464, in view of Rakoshitz, U.S. Patent No. 6,578,077.

The Examiner is respectfully directed to independent Claim 1, which, as amended, recites that an embodiment of the present invention is directed to:

A method for monitoring electronic commerce transactions, said method comprising the computer-implemented steps of:

determining network transport latency between a network monitor and a customer site;

determining application test latency, comprising transmitting an application test to said customer site, wherein said application test is selected to represent a portion of said electronic commerce transactions, and an application monitor determines a time interval between said transmitting and receiving a response; and

indicating said network transport latency and said application test latency on a display.

Claims 13 and 20 recite similar limitations. Claims 2-12 are dependent upon Claim 1, and recite additional features of the claimed invention. Claims 14-19 are dependent upon Claim 13, and recite additional features of the claimed invention. Claims 21-26 are dependent upon Claim 20, and recite additional features of the claimed invention.

The rejection suggests that Deverill discloses determining application test latency. Applicants respectfully assert that Deverill fails to disclose determining application test latency, comprising transmitting an application test to said customer site, wherein said application test is selected to represent a portion of said electronic commerce transactions, and an application monitor determines a time interval between said transmitting and receiving a response, as claimed. Specifically, the cited portions of Deverill, i.e. ¶ 12, discuss measuring the processing time for a transaction to pass through a system. Deverill does not discuss determining the latency of an application *test*, as claimed.

Applicants understand Deverill to describe a system for measuring the precise latency of information flowing through computer systems (¶ 11); the system described by Deverill tracks transactional information, "drawn only from the business or other transactional data associated with the transaction." Nowhere does Deverill teach or suggest determining *application test latency*, as claimed. The processes Deverill provides tracking data for do not *represent* a portion of an electronic commerce transaction, as claimed; rather, Deverill tracks the latency of *actual* commerce transactions.

The rejection suggests equating the actions of Deverill, e.g., measuring the response time of the transaction event, with the exemplary application *tests* recited in the specification (pg. 4, ¶ 1-2). Applicants respectfully disagree that such a comparison is valid. Again, Applicants stress that the system of Deverill is inoperable to perform the steps recited in Claim 1; Deverill does not perform *tests*, in the manner specified by the limitation "determining application test latency, comprising transmitting an application test to said customer site, wherein said application test is selected to represent a portion of said electronic commerce transactions, and an application monitor determines a time interval between said transmitting and receiving a response", as claimed. Rather, the system of Deverill involves using a separate API installed on the target system, to enable the measurement of transaction times of *actual* commerce transactions, rather than the selected *test* recited in the claimed embodiment (*see* Deverill, e.g., ¶ 14).

Rakoshitz fails to remedy this defect with Deverill, as Rakoshitz also does not disclose determining application test latency, comprising transmitting an application test to said customer site, wherein said application test is selected to represent a portion of said electronic commerce transactions, and an application monitor determines a time interval between said transmitting and receiving a response, as claimed. Accordingly, Deverill, alone or in combination with Rakoshitz, fails to anticipate or render obvious the embodiments of the present invention recited in Claims 1, 13, and 20.

Therefore, the Applicants respectfully submit that the claimed embodiments of the invention as set forth in Claims 1, 13, and 20 are in condition for allowance.

Accordingly, the Applicants also respectfully submit that Claims 2-12, dependent on Claim 1, Claims 14-19, dependent on Claim 13, and Claims 21-26, dependent on Claim 20, overcome the basis for rejection under 35 U.S.C. 103(a), as they are dependent on allowable base claims.

Conclusion

In light of the above-listed amendments and remarks, Applicants respectfully request allowance of the remaining Claims.

The Examiner is urged to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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